

HUMAN RIGHTS AND MINORITIES IN AFRICA: A THEORETICAL AND CONCEPTUAL OVERVIEW

BY E. IKE UDOGU*

This disquisition addresses concisely the issues of human rights in Africa within the context of some general theories of human rights. It also explores the 1948 Universal Declaration of Human Rights, and the famous African [Banjul] Charter on Human and Peoples' Rights of 1981 and 1986.

It finds that in spite of the participation of African nations in the United Nations and the Organization of African Unity, which approved the above instruments, African countries, overall, have been unsuccessful in implementing the tenets of the documents they signed. Moreover, this work suggests that African governments seldom respect their national constitutions on the issue of human rights. Thus implying that it is one thing to promulgate and sign declarations on human rights and quite another to implement these rules.

The essay alludes to a paradox which flows from the fact that African governments which should be in the business, *à la* their national constitutions, of protecting human rights are themselves major violators of their citizens' basic rights.

This work concludes by suggesting that all is not lost since the internationalization of the issue has sensitized the global community to the need for a concerted effort to deal with this problem. In this regard, international and local non governmental organization (NGOs) are playing major roles in attempts to ameliorate this issue in many African societies.

*E. Ike Udogu is professor of African and international politics at Francis Marion University, Florence, South Carolina. An earlier version of this paper was presented at the Sixteenth Annual Conference of the Association of Third World Studies (ATWS), North Carolina Central University, Durham, NC., (October 8-10), 1998, and at the University of Illinois Center for African Studies and College of Law symposium and workshop entitled *Human Rights and Development in Africa—Establishing the "Rule of Law"* (July 8-10, 1999). My special thanks to Dr. F. Wafula Okumu, professor of Human Rights, Chapman University, Los Angeles, CA., for his contribution to the first draft of this paper, which was presented at the University of Haifa, Israel, August 16-21, 1998.

INTRODUCTION

It goes without saying that the issue of human rights is a twentieth century phenomenon. This is so because the intellectual discourse on this problem, and reaction to it, gathered momentum after WWII.

Hitherto, the primacy of the sovereign nation-state in international relations relegated the discussion on human rights issues to domestic politics. In this respect, the violations of the rights of minority groups, and even genocidal policies, were considered the internal affairs of sovereign nation-states to which other sovereign nations were forbidden to interlope.

Operationally, minorities refer to the individual level of identification with a culturally defined collectivity or group, who may be immigrants or indigenes of a polity, that is fewer in population than the dominant group(s).¹ Human rights involve, among other things, the equal protection (within the rule of law) of individuals or groups inside a nation-state by the government, NGOs and private individuals. These concepts will be fully explored later in this paper.

Although attempts have been made to highlight the problems of human rights globally, at least since 1948, the results have been mixed. For example, the following declarations and covenants have been made to address human rights issues: The 1948 Universal Declaration of Human Rights; Proclamation of Teheran, Final Act of the International Conference on Human Rights of 1968; International Covenant on Civil and Political Rights of 1966 and 1976; International Covenant on Economic, Social and Cultural Rights of 1966 and 1976; African [Banjul] Charter on Human and Peoples' Rights of 1981 and 1986; Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities of 1993; and Vienna Declaration and Programme of Action, World Conference on Human Rights of 1993. These are just a few declarations and covenants on this subject matter.

In some cases the above manifestos, even though well-intended, have exacerbated the plight of minority groups in Africa when groups attempt to assert their rights. For instance, within the context of the 1948 Universal Declaration of Human Rights, Article 1 states: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

This tenet of the declaration while laudable is not easily realizable and problematic in many cases, for instance, in the United Kingdom (Catholics and Protestants in Northern Ireland); in Spain and France (the Basque separatist movement); in Bosnia-Herzegovina (the Muslims, Serbs and Croats); in the Russian Federation (the Chechians), just to cite a few examples.

In Africa, the human rights problems of minority groups are phenome-

nal and in many ways analogous to those in Europe and elsewhere. After all, following the Berlin Conference of 1884/5, Africa was officially ceded to some of the European powers. The ethno-political problems in Rwanda, Burundi, Kenya, Zimbabwe, the Sudan and Nigeria have occurred, *inter alia*, as a result of colonialism and the infringements upon the human rights of minority groups in these areas. Indeed, separatist movements, internal/irredentist wars and political unrest in many countries in Europe and Africa flow in part from this source.

To this end, (within the context of the 50th anniversary of the UN Universal Declaration of Human Rights), this paper will attempt to do the following: discuss a few theories of human rights; raise the issue of the violation of human rights of a minority group in Africa; and suggest ways to ameliorate the problem on the eve of the next millennium.

HUMAN RIGHTS: A THEORETICAL OVERVIEW

Human rights issues today, whether visualized from the right or left of the ideological spectrum, are a fundamentally global philosophical, moral, legal, social and political phenomenon of this century. Indeed, so universal are their scope and allure within the contemporary global village that such cherished ideas, namely, civil and political rights which gained currency in the capitalist and imperialist epoch, and the concept of egalitarianism of the human species which was one of the central dogmas of the socialist revolution, in the first half of this century, are subsumed within the context of human rights.

But the paradox, in spite of its allurement, is that not all people enjoy their rights equally in most polities. Nevertheless, conceptually and theologically, individuals are meant to have identical human rights. Unfortunately, this has not always been the case. In a real sense, therefore, the clamor for human rights becomes a popular lingo among human rights activists, and serves as rallying cry for those who suffer from victimization in their politico-economic, religious and cultural systems. The complaint of human rights violations by collectivities is intended to bring pressure to bear on the polity to change legally or politically those vices that tend to marginalize the group in the system so that in the final analysis, the quest or call for human rights by the "victims" may be unnecessary. In a way, the possibility of realizing such a condition could only further the legitimacy of the state, which is one of the primary objectives of the custodians of the nation-state.

Conceptually, the fundamental discourse regarding the issue of human rights rests on the "character" of a human being: That is to say, philosophically, what does it imply to be an individual or a human being? Are all persons equal

and therefore must *a priori* enjoy equal rights? Moralists may argue, theoretically, for such an utopia insisting that this might be the only way to create an ideal society capable of promoting democracy and legitimacy. Realists, on the other hand, may argue that such a vision is only good on paper and contend that the argument on human equality is not only hollow, but also hogwash. Human rights cannot be dished out to every individual like a meal in a public canteen. Given the competitive claims of human beings on a society, there are bound to be anomalies in the apportionment of goods and services which, invariably, may impact on the social stratification of the society.

Moreover, Jack Donnelly has argued that "an anthropological approach that seeks to ground human rights on cross-cultural consensus faces equally serious problems. History is replete with societies based on hierarchies of birth, gender, wealth, or power. ...American history is marked by systematic torture and execution of religious deviants (witches); enslavement of and then legal discrimination against African Americans; ...denial of political participation, property rights, and even legal personality to women; and repression of political dissidents (especially communists)."²

Additionally, the above thesis is furthered by an argument that has been propounded elsewhere that in most societies there can only be rich folks if there are poor folks.³ Therefore, the quest for the wealthy to perpetuate the status-quo social order remains attractive and salient. Indeed, it is the perception of what Ted Robert Gurr termed relative deprivation,⁴ especially in segmented or divided societies that has not only sharpened, but also made the cry for human rights reach its crescendo on the eve of the 21st century and after 50 years of the signing of the 1948 Universal Declaration of Human Rights. Historically, this whole matter of human rights is a complicated and perplexing one. Take for example:

Classical Greeks considered themselves inherently superior to barbarians (non-Greeks), who were not entitled to the same treatment as Greeks. The American notion of manifest destiny or the British colonial ideology of the white man's burden justified barbarous treatment of non white peoples on the grounds of the superior virtue or moral development of Americans and Englishmen. Nazi Germany provides an even more extreme version of the denial of rights to "inferior races" on grounds of moral and political superiority...⁵

Such political and socio-cultural treatment of human beings is endemic in many societies—untouchables in India, pygmies or Twas in Rwanda, blacks in apartheid South Africa, religious minorities in Egypt and elsewhere. These

are glowing examples and reminders of the problematic nature of human rights. In fact, not even the views of naturalist scholars (in legal terms) that human rights were given to human beings by God appears to have currency, even among some of its ardent proponents, because of the political complexities of different societies. In fact, one of the preambles of the American declaration of independence states that:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed. That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such a form, as to them shall seem most likely to effect their Safety and Happiness...⁶

This declaration does not allude to women and certainly blacks and Native Americans. Nevertheless, to fully comprehend the tone of this document one must situate it within its historic context. That notwithstanding, in contemporary political discourse, women and minorities are not still fully enjoying their human rights. For example, some Muslim countries in connivance with the Vatican have remained firm in their denial of women certain human rights at women conferences based on theological grounds and interpretations of the role of women in the society. Asian countries emphasize the primacy of their values vis-a-vis human rights, and American and British conservatives contend that "economic, social and cultural rights are not really human rights."⁷ Relativist scholars argue that moral values and indeed human rights issues should be based on the historicity and specificity of a given milieu. Therefore one's views, comprehension and analysis of human rights should be visualized within this context. For example, they contend, Western democracies tend to stress civil and political rights and the right to private property, whereas the communists accentuate economic and social rights. Developing nations, on the other hand, are more concerned with self-determination and economic development. In light of the above, the interpretations of the concept of human rights could be conflictual on the basis of these different schools of thought (and their empiricisms). This is so even though the Vienna World Conference on Human Rights recognized and acknowledged the relativity of human rights.

Universalist scholars contend that human rights values are universal and are not subject to cultural manipulations and specificity. There are no historical differences and therefore rights apply everywhere—i.e., universally. These contending views, among others, have made the issue of human rights problematical because of the various interpretations concerning its validity and relevance in different polities.

But what are some prevailing theories of human rights? Jack Donnelly provides three competing typologies: statist, cosmopolitan and internationalist models. The traditional statist model examines the issue of human rights within the context of the organic theory of the state or from the sovereign character of the state. Therefore, the juridical interpretation of human rights must flow from within the sovereign nation-state. It is thus outside the purview of the international community. Any meddling in the internal affairs of the sovereign nation-state in the manner in which it handles or treats its citizens may even be considered the violation of international law, specifically Article 2, paragraphs 4 and 7 of the UN charter.

The cosmopolitan model sees the state as an obstacle in the political calculus and conceptual analysis of human rights. This model stresses the significance of the individual rather than the state. It sees the state being assailed and sandwiched from below by influential individuals and powerful non-governmental organizations (NGOs) and from the top by the global community. The state having been "squashed" in this model becomes weak and therefore less confrontational toward external challenges on issues relating to human rights.

The internationalist model suggests the amalgamation of the state and the different informed publics including individuals with clout and NGOs to further human rights. The assumption is that human rights activity works within the context of the rules and norms established by the international community.⁸ Indeed, Article 28 (Resolutions 1503 and 1235) of Universal Declaration of Human Rights gives intergovernmental organizations (IGOs), NGOs and governments the mandate to intervene in the internal affairs of nation-states on behalf of human rights. Further, various regional organizations, for example, the Organization of American States, the Organization of African Unity and the European Community with their various declarations and covenants on human rights support the above thesis.

At best, though, these frameworks are fundamentally descriptive. They explain what are theoretically sound, but are not always practical because of conflicting interests. In short, when it comes to the nuts and bolts of international relations, the state's national interest supersedes ideologies and human rights proclamations. Witness, for instance, US granting of the most favorite trading

nation status to China despite the latter's dismal and problematic human rights record.

In sum, the foregoing analyses are intended to provide the superstructure for the conceptual, theoretical and even conflictive analysis of the perplexing issue of human rights. Indeed, because of its interpretative antinomies (sometimes based on national security/interest), it cannot be fully explained especially because of the unique political, social and cultural norms of the various societies which make up our contemporary global system. Be that as it may, it is within this framework that I raise, in brief, the human rights issues of minority groups in Africa, and Nigeria in particular.

The question of minority group human rights in both national and international politics has become a major issue of intellectual and political discourse within, at least, the past fifty years. In Africa, the independence of former colonies championed by the UN, within the context of its various resolutions on the granting of independence to colonial peoples, and on the rights to national self-determination, are instructive.⁹

In Europe, the collapse of communism in Eastern Europe and the implosion of the Soviet Union sharpened the human rights problems of minority groups and brought the issue to the fore. However, a deeper analysis of these phenomena will be discussed later. The major concern here relates to one of the documents on which the entire foundation of this essay rests: Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities. In fact, the UN General Assembly on this issue stated:

...Desiring to promote the realization of the principles contained in the Charter, the Universal Declaration of Human Rights, ...the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Beliefs, ...as well as other relevant international instruments that have been adopted at the universal or regional level and those concluded between individual states Members of the United Nations...encourage the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities [because they] contribute to the political and social stability of states in which they live.¹⁰

Moreover, it is stated in Article 1 of this document that "states shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of their identity." Substantive sections in this proclamation placed emphasis on the role of the state and its policies in addressing the full participation of minority groups in the economy and national development. The question, though, is to what extent have countries lived up to the tenets of this declaration and, if not, why?

In the discussions on minorities in general, there have been problems in the definition and classification of minorities. Even the UN Declaration on the Rights of Persons Belonging to National or Ethnic Minorities and other instruments have no clear definition. A scholar, therefore, must have to base his or her analysis on extrapolations and interpretations of the concept. Any wonder, then, that

it has been correctly observed that international law supposes the existence of minorities both in general and of specific types. However, while the existence of human beings and states are "axiomatic" in international law, the existence of human groups is problematic. Conceptually, international law struggles with the definitions of actors beyond the "state;" indeed, the problem of defining actors has always troubled political theory in general and international relations in particular. ...[While] the catalogue and content of individual human rights has become relatively clear, the specificity of protection for groups, particularly minorities, has remained largely uncertain. Paramount among this uncertainty has been the very definition of "the" or "a minority" to whom any rights may accrue.¹¹

In view of the above, there have been contending definitions of minorities of which that of Francesco Capotorti may serve as an adequate definition. He affirmed that a minority is "[a] group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members—being national of the state—possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language."¹²

AFRICA AND THE HUMAN RIGHTS QUESTION: A CONCEPTUAL ANALYSIS

The African [Banjul] Charter on Human and Peoples' Rights (ACHPR), adopted on June 27, 1981, which was entered into force on October 21, 1986 represents the superstructure of African convention on Human Rights.¹³ In a way, it is somewhat analogous to the Council of Europe Framework Convention. The covenant states, *inter alia*, that:

This convention of the Organization of African Unity, which stipulates that freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African people¹⁴...and the Universal Declaration of Human Rights; Taking into consideration the virtues of their historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples' rights;... Convinced that it is henceforth essential to pay a particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights [as] a guarantee for the enjoyment of civil and political rights; ...Undertaking to dismantle all forms of discrimination, particularly those based on race, ethnic group, color, sex, language, religion or political opinion; ...Firmly convinced of their duty to promote and protect human and peoples' rights and freedoms taking into account the importance traditionally attached to these rights and freedoms in Africa.¹⁵

This synopsis of the preamble was immediately followed by a plea to member states to adhere to the spirit of the charter in Article 1 and 2. In particular, Article 1 states that: "The Member states of the Organization of African Unity, parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them.

This convention was meant for the protection of individual as well as group rights, as stated in Article 12, Section 5 of the ACHPR. But how efficacious an agreement could be depends on the interpretation of the tenets of the instrument. In other words, political entrepreneurs in African nation-states are charged to design legislation that is intended to enforce the spirit of the Charter, but how successful they have been in doing so is another matter.

The tenets in the African Charter on Human and Peoples' Rights stress the individuality of rights more than they do group or collective rights despite the fact that the charter alludes repeatedly to "every individual" and "all peoples." In a real sense, this fine document does not clarify the rights, for instance, of ethnic collectivities. Indeed, it is the lack of respect for individual's human rights in spite of this Charter that prompted groups to converge for the purpose of asserting their rights. This was considered a more effective way of bringing pressure to bear on the state regarding the violation of their rights.

For example, it was the inability of the Nigerian state to respect the individual rights of some of its minority groups that prompted the formation of the Ethnic Minority Rights of Africa (EMIROAF) to do battle with the state. The concern of the group was economic and political marginalization which it pursued within the framework of the ACHPR and Part 1, Article 1, of the International Convention on Civil and Political Rights. This Article states: "All peoples have the right of self-determination. By virtue of the right to freely determine their political status and freely pursue their economic, social and cultural development."¹⁶

In a broader context, the human rights question, in spite of the concern raised by some scholars and members of the informed public, is wrapped up in an enigma. It is a puzzlement which Shadrack B. O. Gutto, in his indepth analysis of "Human and Peoples' Rights in Africa," attempted to elucidate.¹⁷ Indeed, human rights infringements in Africa are so rampant that it has become imperative to undertake a critical examination of their impact on ordinary Africans—the masses that these rights were intended to protect.

The intellectual conversation on this topic at the international level is one that is occasionally troublesome, especially from certain African political apologists, nurtured by the euro-centric view that human rights issues are in the main, or essentially, European. To that end, they contend that African countries should emulate the European experience. This is an argument that tended to gravitate toward the claims that human rights were invented by the Europeans and North Americans. Therefore, as the argument goes, such peripheral regions as Africa and other emerging nations needed to understand this "truism" and attempt to imbibe the culture of human rights in existence in Europe. This was so because the respect for human rights was imperative for the pollination and fertilization of democracy in Third World polities. Some political analysts argue that since human rights claims in Africa tend to assail the privileges of the ruling elites, they blame their impact on colonial and specifically imperialist strategies to undermine their influence and power base in Africa. This view, contended Gutto, is not supported within the historical context of Africa.¹⁸ Nevertheless, though, there exist certain fundamental and immutable dimensions that

impact on human rights issue in Africa. These are social class structures and relations; the inherited colonial culture; the depth of cultural and linguistic heterogeneity in virtually all African countries; the local and external forces, including social and economic models; authoritarian political systems; gender relations; wars and environmental conditions, *inter alia*.¹⁹

Moreover, the above factors are aggravated in the daily lives of a majority of Africans by the following:

Police raids and repression, denial of the right to access to fair judicial processes in the adjudication of private and public legal disputes, the denial of the freedom of association and organization, the curtailment of the right to free participation in the choice of leaders through secret ballot, high infant mortality rates due to lack of food and proper medical care and housing, injuries sustained from women-beaters, inadequate income from hard labor...²⁰

These conditions are real in Africa despite the fact that African states were signatories to two vital international covenants on human rights, viz: International Covenant on Economic, Social and Cultural Rights²¹ and International Covenant on Civil and Political Rights²² which were entered into force in 1976. Whereas a review of the African Charter on Human and Peoples' Rights suggests that the covenant within the framework of human rights is on paper more inclusive than most other instruments,²³ the actual implementation of its tenets leaves much to be desired. Indeed, from Nigeria to Kenya and from the Sudan to Zimbabwe, the above analysis puts into the limelight the whole problematic of comprehending the antinomies in the continent's practice (or lack thereof) of human rights.

In Africa, the infractions of the human rights of minority groups are phenomenal because of the area's politico-economic instability. Yet, the respect for human rights is a *sine qua non* for the promotion of democracy, political stability and economic revitalization in the continent. Indeed, because of the seriousness of human rights problems in Africa, the journal, *Africa Today*, sets aside a section in its publications entitled, *Africa Rights Monitor*, in which the journal addresses this fundamental question in the continent. It might be foolhardy to attempt to discuss minority group human rights concerns in over 50 independent African states. To this end, I have subjectively chosen Nigeria for the purpose of analysis. My choice stems from the global awareness of the Ogonis in Nigeria. On this important minority group, so much have been written and talked about. The analysis that follows is at best very brief, and it is intended to

exemplify the issue of human rights infringements in an African country.

THE Ogonis

The Ogoni minority group in the Rivers state of Nigeria consists about 500,000 out of a population of approximately 110 million. It produces about 40% of the nation's crude oil. This "black gold" nets about 90-95% of the country's foreign exchange.²⁴ Yet, Ogoni land is vastly underdeveloped and the environment is inhospitable as a result of oil exploration. Repeated attempts made by the Movement for the Survival of the Ogoni People (MOSOP), the Ethnic Minority Rights of Africa (EMIROAF) and the National Youth Council of Ogoni People (NYCOP) to bring pressure to bear on the federal government of Nigeria to respect the group's human rights were rebuffed or, at best, treated lightly.²⁵ For example, the demands made by MOSOP on the government to further peace in the country are contained in the Ogoni Bill of Rights. In addition to asserting its principles on non-violence, it made the following human rights requests: Ogoni political autonomy within a wider Nigerian confederation of states, protection of local Ogoni languages, control of a fair share of the economic resources derived from Ogoni land, and protection of Ogoni environment.²⁶ The confrontations among the Ogonis as to the strategies and tactics of obtaining the group's objectives led to a clash between its key leaders, and later the federal government, culminating in the death sentence of the human rights activist, Ken Saro Wiwa and eight others on November 10, 1995, for demanding human rights for the Ogoni minority group.²⁷

Such problematic human rights record in Nigeria probably prompted the Roman Catholic Pontiff, Pope John Paul II, during his March 1998 visit to Nigeria to assert emphatically:

The dignity of every human being, his inalienable rights, the inviolability of life, freedom and justice, the sense of solidity and the rejection of discrimination—these must be the building blocks of a new and better Nigeria. ...There exist, in fact, basic human rights of which no individual can ever be legitimately deprived, for they are rooted in the very nature of the human person and reflect the objective and inviolable demands of a universal moral law.²⁸

But how might human rights problems be ameliorated? This is the subject of my concluding analysis.

CONCLUSION

Theodore A. Couloubis and James H. Wolfe have summed up the UN 1948 Universal Declaration of Human Rights thus:

The right to life, liberty, and security of person; the right to freedom of thought, speech, and communication of information and ideas; freedom of assembly and religion; the right to government through free elections; the right to free movement within the state and free exit from it, the right to asylum in another state; the right to nationality; freedom from arbitrary arrest and interference with the privacy of home and family; and the prohibition of slavery and torture; ...The right to work, to protection against unemployment, and to join trade unions; the right to a standard of living adequate for health and well-being; the right to education; and the right to rest and leisure.²⁹

These rights are essential for the furtherance of harmony and stability in any polity. The key issue, though, is how to attain these laudable declarations in a world in which there exist numerous competing and conflicting interests? Moreover, the concept of human rights subsumes so many dimensions under its rubric, some of which conflict with many national cultures. The major thrust of the following discussion relates to the instrumentalities for addressing human rights questions or how to encourage the existing organizations to pursue their work of promoting these rights with greater vigor in Africa.

In Africa, at this juncture of its political history, it has been difficult for most regimes to implement the human rights instruments. This is so because they are, in the words of Gunnar Myrdal, soft states unable to enforce their laws. Moreover, in some cases the government itself is the major problem in the infractions of the human rights of minorities.³⁰ Human Rights Watch/Africa and other non-governmental organizations have been vocal in calling the attention of governments to these issues. Their clamor, however, has nearly always fallen "on deaf ears" of some of the despotic leaders in the continent. For example, the late Moshood Abiola, the presidential candidate who was believed to have won the 1993 Nigerian presidential election died in government detention charged of treason without trial after he declared himself president of the country in 1994. The same is true of many human rights activists and advocates, particularly journalists and lawyers who expose human rights infringements. Given this prognosis in Nigeria, how might African nations and human rights organizations

function effectively?

In Africa, the Organization of African Unity (OAU) established an African Commission on Human and Peoples' Rights whose *raison d'être* was to safeguard the human rights tenets contained in the African Charter on Human and Peoples' Rights. Although the Commission is made up of (11) elected members for six year terms, critics charge that they are often beholden to national governments and their meetings are bogged down by rules and secrecy and, therefore, are too slow in addressing human rights issues.³¹ Moreover, the African Commission does not have a supranational mechanism and power to enforce human rights infringements.

Most national constitutions address the issue of human rights, but the respective states appear not to enforce human rights infractions with enthusiasm. For instance, the following articles in Chapter IV of Nigeria's 1979 constitution on *Fundamental Rights* state:

•30-(1) Every person has a right to life, and no one shall be deprived intentionally of his[her] life...

•31-(1) Every individual is entitled to respect for the dignity of his persons, and accordingly:

- no person shall be subjected to torture or to inhuman or degrading treatment;
- no person shall be held in slavery or servitude; and
- (c) no person shall be required to perform forced or compulsory labour...

•33(1) In the determination of his[her] civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality...

•36-(1) Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference (i.e., Right to freedom of the press and expression)...³²

Whereas these tenets, of the 1979 constitution, intended to protect the human rights of all Nigerians are commendable, the fact remains that successive

governments since the promulgation of this constitution have systematically violated the intents of these declarations. Indeed, human rights violations during the military regimes assumed an epidemic proportion in light of the number of journalists locked up in jails across the country, and the clandestine killings of individuals who opposed the regime. Reports of the torture of prisoners and the suspicious death of the outspoken critic of the Abacha regime, Musa Shehu Yar' Adua, are good cases in point.

But in much of Africa, and other developing countries, the political actors contend that they are more concerned with "nation-building" and "development," and do not wish to be "bothered" by group or individual human rights of those presumed to be trouble makers; this is especially so with respect to minority groups seeking "special" concessions from the regime.

It has been suggested, however, that if human rights organizations are to be efficient, they must build their support from the grassroots, especially since the present top down approach is not working.³³ But above all, the populace must be educated on the virtues of human rights. To this end, the strategy by Nigeria in 1997, on the eve of the 50th anniversary of the Universal Declaration of Human Rights, to introduce the subject for study in secondary schools in Nigeria is refreshing.³⁴ If adequately implemented, it should serve as an important step in attempts at ameliorating the endemic human rights problems in post-Abacha Nigeria and possibly serve as a framework or model for other African countries facing similar human rights crisis.

In sum, since the African Commission is relatively weak in enforcing human rights issues its functions should be augmented by NGOs. In this regard, the insightful observation and remarks of Laurie Wiseberg are worth considering: "If there is any hope for progress in the human rights area, responsibility for promoting and maintaining human rights must reside with non-governmental organizations and sensitized pressure groups. It is largely through such groups and groupings, particularly if they act in coalition with each other and with those statesmen who, for whatever reasons, are willing to champion specific human rights causes, that state behavior can be surveyed, violations denounced, pressure...mobilized and applied on government, so that some progress may be made toward a more humane social order."³⁵ In this regard, the activities of the Committee for the Defense of Human Rights (CDHR) in pressuring the Nigerian government to release political detainees under the infamous Decree (No. 2) which permitted government agents to arrest any "suspected" citizen without charge is a good case in point.³⁶

The troublesome issue of human rights violations in Africa is going to be with us for a long time to come. This is so given the clash between some African traditional cultures, norms, values, religious beliefs on the one hand and

human rights demands on the other. The above situations are exacerbated by social and political marginalization of minority groups who lack numerical clout in national politics. But, it is possible that through education on human rights issues and the watchful eyes and legitimization of the activities of NGOs on human rights infringements, human rights problems could be mitigated. In this way, the visions of the UN 1948 Universal Declaration of Human Rights, African [Banjul] Charter on Human and Peoples' Rights, and other similar instruments for the promotion of peace and stability and the betterment of humanity might be furthered in Africa.

NOTES

1. See John Hutchinson and Anthony D. Smith (eds.), *Ethnicity* (New York: Oxford University Press, 1996), pp. 12-14; 17-18.
2. Jack Donnelly, *International Human Rights* (Boulder, CO: Westview Press, 1998), pp. 20-21.
3. E. Ike Udogu, "The Allurement of Ethnonationalism in Nigerian Politics: The Contemporary Debate," *Journal of Asian and African Studies*, Vol. 29, Nos. 3-4 (July-October 1994), p. 161.
4. See Theodore A. Coulombis and James H. Wolfe, *Introduction to International Relations: Power and Justice* (Englewood Cliffs, NJ: Prentice Hall, 1990), p. 205. By relative deprivation is meant the perceived discrepancy between one's abilities and the rewards one may realistically expect. If those rewards are limited to a very few...it could create social and political problems.
5. Donnelly, *International Human Rights*, p. 22.
6. See Everett C. Ladd, *The American Polity: The People and Their Government* (New York: W.W. Norton & Company, Inc., 1985), p. A1.
7. Donnelly, *International Human Rights*, p. 24.
8. *Ibid.*, p. 28-29.
9. See "International Convention on Civil and Political Rights," G. A. Res. 2200A (XXI) of 16 December 1966 and *U.N. GAOR Supp.* (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 of March 23, 1976.
10. See "Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities," G.A. Res. 47/135, annex, 47 U.N. *GAOR Supp.* (No. 49) at 210, U.N. Doc. A/47/49 (1993).
11. *Ibid.*, pp. 161-162. See also Hurst Hannum, "Contemporary Developments in the International Protection of the Rights of Minorities," *Noire Dame Law Review*, Vol. 66 (1991), pp. 1431, 1445.
12. *Ibid.*, p. 164. See also U.N. Doc. E/CN.4/Sub.2/384/Rev. 1 (1997) which suggests the problematic issue of defining the term minority.
13. See "African [Banjul] Charter on Human and Peoples' Rights" (June 27, 1981) *OAU Doc. CAB/LEG/67/3 Rev. 5*, 21 I.L.M 58, (1982).

14. See *OAU Charter and Rules of Procedure* (Addis Ababa, Ethiopia: Published by the Division of Press and Information, 1982), p. 7.
15. See Preamble of the "African [Banjul] Charter on Human and Peoples' Rights."
16. G.A. Res. 2200A (XXI) 21, *U.N. GAOR* (No. 16) at 52, U.N. Doc. A/6316 (1996), U.N. T.S. 171 (March 23, 1976).
17. Shadrack B. O. Gutto, "Human and Peoples' Rights in Africa: Myths, Realities and Prospects," *Current African Issues*, Vol. 12 (July 1991), pp. 5-22.
18. *Ibid.*, p. 6.
19. *Ibid.*
20. *Ibid.*, p. 7.
21. See "International Covenant on Economic, Social and Cultural Rights," G.A. Res. 2200A (XXI), 21, *U.N. GAOR Supp.* (No.16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3 (January 3, 1996).
22. See "International Covenant on Civil and Political Rights."
23. Georges Nzongola-Ntalaja, "Violation of Democratic Rights in Zaire," *Issue: The Journal of Opinion*, Vol 22, No. 2 (1994), p.9. This Charter spells out a third category of rights, viz, the rights of peoples. "These newer rights include freedom from discrimination, oppression, and exploitation, and the right to self-determination, to national and international peace and security and to a satisfactory environment for economic and social development." Indeed, this definition goes beyond the traditional definition of human rights as civil liberties. This is so because in its broader context it includes civil, political, economic, social, cultural, and peoples' rights including women's and children's rights as well as the rights of the elderly and the disabled.
24. Steven Cayford, "The Ogoni Uprising: Oil, Human Rights, and a Democratic Alternative in Nigeria," *Africa Today*, Vol. 43, No. 2 (April-June 1996), p. 184.
25. E. Ike Udogu, "Military Politics and Constitutional Discourse: Towards Nigeria's Forthcoming Republic," *Makerere Political Science Review*, Vol. 1, No. 1 (June 1997), p. 17.
26. See "Nigeria: The Ogoni Crisis," *Human Rights Watch/Africa Report* 7, No. 5 (July 1995), p. 10.
27. Cayford, "The Ogoni Uprising: Oil, Human Rights, and a Democratic Alternative in Nigeria," p. 194.
28. Paul Ejime, "Pope Paul Ends Nigerian Visit," *PanAfrica-News Agency*, (<http://www.africanews.org/west/nigeria/stories/1998.html>.)
29. Theodore A. Coulombis and James H. Wolfe, *Introduction to International Relations: Power and Justice*, p. 291.
30. Laurie S. Wiseberg, "The African Commission on Human and Peoples' Rights," *Issue: A Journal of Opinion*, Vol. 22, No. 2 (1994), p. 34.
31. Wiseberg, "The African Commission on Human and Peoples' Rights," pp. 35-37. The functions of the Commission shall be: 1. To promote Human and Peoples' Rights and in particular: (a) to collect documents, undertake studies and researches on African problems in the field of human and peoples' rights, organize seminars, symposia and conferences, disseminate information, encourage

national and local institutions concerned with human and peoples' rights, and should the case arise, give its views or make recommendations to Governments. (b) to formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislation. (c) cooperate with other African and international institutions concerned with the promotion and protection of human and peoples' rights. 2. Ensure the protection of human and peoples' rights under conditions laid down by the present Charter. 3. Interpret all the provisions of the present Charter at the request of a State party, an institution of the OAU or an African Organization recognized by the OAU. 4. Perform any other task which may be entrusted to it by the Assembly of State and Government.

32. *The Constitution of the Federal Republic of Nigeria* (Lagos, Nigeria: Daily Times Publication, 1979), pp. 21-29. See also Chapter VI, Articles 33, 34, 36 and 39 of the 1999 constitution.
33. Makua Wa Matua, "Domestic Human Rights Organizations in Africa: Problems and Perspectives," *Issue: A Journal of Opinion*, Vol. 22, No. 2 (1994), p. 30.
34. Paul Ejime, "Nigeria to introduce Human Rights Studies in Schools," *Panfrica-News Agency* (<http://www.africanews.org/west/nigeria/stories/1997.html>)
35. Wiseberg, "The African Commission on Human and Peoples' Rights," p. 39.
36. See "39 still held under Decree 2, says CDHR," [*Nigerian*] *Vanguard*, March 16, 1999 (<http://www.afbis.com/vanguard/F2170399.html>).